



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,342	01/11/2005	Keiko Karasudani	256140US2PCT	6105
22850	7590	01/11/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER WONG, LINDA	
			ART UNIT 2611	PAPER NUMBER
			NOTIFICATION DATE 01/11/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/501,342	<b>Applicant(s)</b> KARASUDANI, KEIKO	
	<b>Examiner</b> Linda Wong	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4 is/are rejected.
- 7) ☒ Claim(s) 3 and 5-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under continuing data, which papers have been placed of record in the file.

### ***Drawings***

2. **Figure 14** should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-2,4** are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (Fig. 14) in view of Peisa et al (US Patent No.: 6850540).

a. **Claim 1,**

i. The admitted prior art discloses

- “a detection step of detecting data traffic of the signals including the combined plural categories of the data” (Fig. 14, label s144)
- “a search step of searching, among the transmission format combination indicators selected in the selection step, for a transmission format combination indicator matching with the data traffic detected in the detection step” (Fig. 14, label s146)
- “a transmission step of transmitting the transmission format combination indicator searched for and determined in the search step, together with the signals”. (Fig. 14, label s147)

ii. The admitted prior art fails to disclose

- A. “a prediction step of predicting data traffic of predetermined categories of data”
- B. “a selection step of, among a candidate set of the transmission format combination indicators, selecting transmission format combination indicators, based on the predicted data traffic in the prediction step”.

iii. Peisa et al discloses such limitations. (**Limitation A:** Fig. 8, label 805 discloses determining QoS or quality of service of the channel. **Limitation B:** Fig. 4, label 425 discloses determining the TFC, transport format

combinations based on label 415, Fig. 8, label 820 determines selection based on the calculated QoS.) It would have been obvious to one skilled in the art to incorporate determining the data traffic or quality of the channel as well as select the transport format based on the quality of service as disclosed by Peisa et al into the admitted prior art so to ensure proper transmission of data.

- b. **Claim 2**, The admitted prior art discloses the data is audio data. (Fig. 14, label s142)
- c. **Claim 4**,
  - i. The admitted prior art discloses
    - “a search step of searching, among a candidate set of the transmission format combination indicators, for a transmission format combination indicator matching with the candidate signal generated in the signal generation step” (Fig. 14, label s146) and
    - “a transmission step of transmitting the transmission format combination indicator searched for and determined in the search step, together with the candidate signal”. (Fig. 14, label s147)
  - ii. The admitted prior art fails to disclose
    - A. “a prediction step of predicting data traffic of the signals including combined plural categories of data”
    - B. “a signal generation step of, in a case where the data traffic predicted in the prediction step exceeds a predefined value, generating a candidate

signal in which predefined low-priority categories of transmission data are excluded from the plural categories of the data, so that the data traffic may fall within the predefined value”

- iii. Peisa et al discloses such limitations. (**Limitation A:** Fig. 8, label 805 discloses determining QoS or quality of service of the channel, **Limitation B:** Fig. 4, labels 430,435, Fig. 6, labels 615,620, Col. 17, lines 10-31 discloses prioritizing packets.) It would have been obvious to one skilled in the art to incorporate determining the data traffic or quality of the channel as well as select the transport format based on the quality of service as disclosed by Peisa et al into the admitted prior art so to ensure proper transmission of data.

#### ***Allowable Subject Matter***

4. **Claims 3,5-8** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Wong whose telephone number is 571-272-6044. The examiner can normally be reached on 9-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Payne can be reached on (571) 272-3024. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
10/501,342  
Art Unit: 2611

Page 6

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Linda Wong  
1/6/2008

  
DAVID C. PAYNE  
SUPERVISORY PATENT EXAMINER